

**Case No. 24-3445**

**UNITED STATES COURT OF APPEALS  
FOR THE EIGHTH CIRCUIT**

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Drake University  
Plaintiff - Appellee  
v.

Des Moines Area Community College Foundation; Des Moines Area  
Community College  
Defendants - Appellants

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**APPEAL FROM THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF IOWA**

Case No. 4:24-CV-00227  
The Honorable Stephanie M. Rose

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**UNRESISTED MOTION TO CONSOLIDATE APPEALS, ALIGN  
BRIEFING SCHEDULES, AND EXTEND THE DEADLINE FOR  
APPELLANTS' BRIEF AND APPENDIX**

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Dated: January 15, 2025

*Attorneys for Defendants - Appellants*

COMES NOW, Defendants - Appellants Des Moines Area Community College Foundation and Des Moines Area Community College (“Appellants”) for their Unresisted Motion to Consolidate Appeals, Align Briefing Schedules and Extend the Deadline for Appellants Brief and Appendix pursuant to Fed. R. App. P. 3(b)(2), state as follows:

1. On November 22, 2024, the District Court, the Honorable Stephanie M. Rose, entered an order granting Drake University’s Motion for a Preliminary Injunction.
2. Appellants timely appealed the District Court’s decision in this appeal, which is docketed as Appeal No. 24-3445.
3. On December 5, 2024, Appellants filed an expedited Motion to Extend Deadline to Comply with Preliminary Injunction Order and Clarify Scope of Preliminary Injunction in the District Court.
4. On December 10, 2024, the District Court entered an order on Appellants Motion to Extend and Clarify, which clarified the scope of the previously-entered preliminary injunction.

5. On January 9, 2025, Appellee filed a timely Notice of Interlocutory Appeal of the clarification order entered on December 10, 2024, which is docketed as Appeal No. 25-1053.

6. Appellants request that the Court consolidate this appeal with the appeal filed by Drake on January 9, 2025. The two appeals challenge the same order entered on November 22, 2024, which was clarified on December 10, 2024.

7. Consolidation is appropriate because the two appeals involve the same preliminary injunction order, the same parties, and the same counsel for the parties. Accordingly, consolidation will promote efficiency and consistent treatment. *See* 16A Wright & Miller, Federal Practice & Procedure § 3949.2 (5th ed.) (“A court of appeals may choose to consolidate appeals for the sake of efficiency and to promote consistent treatment.”); *Chapman v. Lab One*, 390 F.3d 620, (8th Cir. 2004) (consolidating appeals where the two cases presented closely related issues).

8. For the sake of administrative efficiency, Appellants also request that the Court align the briefing schedules for both appeals. *See*

16A Wright & Miller, supra, at § 3949.2 (noting that consolidated appeals “generally follow a single briefing schedule”).

9. Because the two appeals are appealing the same preliminary injunction order entered on November 22, 2024, as clarified on December 10, 2024, Appellants respectfully request that the two appeals be treated as cross appeals pursuant to Fed. R. App. Pro. 28.1.

10. The current deadline for the Appellants initial brief and appendix in this appeal is January 23, 2025.

11. Due to the consolidation of the two appeals into a cross appeal, Appellants respectfully request that its deadline be extended to February 3, 2025.

12. Counsel for the Appellants has conferred with counsel for Appellee, and they do not resist any of the relief sought in this motion.

WHEREFORE, the Appellants request that the Court:

- a. Consolidate this appeal with Plaintiff-Appellee’s Appeal No. 25-1053;
- b. Align the briefing to comply with Fed. R. App. Pro. 28.1 for cross appeals; and

- c. Extend the deadline for Appellants' principal brief and appendix to February 3, 2025.

Date: January 15, 2025

s/R. Scott Johnson

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## CERTIFICATE OF COMPLIANCE

The undersigned counsel of record hereby certifies that this Unresisted Motion to Consolidate Appeals, Align Briefing Schedules and Extend the Deadline for Appellants Brief and Appendix complies with Eighth Circuit Local Rule 28A(h), as it has been scanned and is virus-free.

Date: January 15, 2025

s/R. Scott Johnson

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**CERTIFICATE OF SERVICE**

I hereby certify that on January 15, 2025, I electronically filed the foregoing Unresisted Motion to Consolidate Appeals, Align Briefing Schedules and Extend the Deadline for Appellants Brief and Appendix with the Clerk of Court for the United States Court of Appeals for the Eighth Circuit by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

s/ R. Scott Johnson